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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,142	03/11/2004	Franco Delpiano	871-011711-US(PAR)/360302	5564
2512	7590	12/21/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			ULLAH, AKM E	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HA

**Office Action Summary**

Application No.

10/798,142

Applicant(s)

DELPINO ET AL.

Examiner

Akm Enayet Ullah

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 6-18 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/11&amp;4/19/04</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

### ***Detailed Action***

*Applicant cooperation is requested in correcting any errors of which applicant may become aware in the specification.*

### ***Status of the Application***

*Claims 1- 18 are pending in this application.*

*If applicant is aware of any prior art or any other co- pending application not already of record, he/she is reminded of his/her duty under 37 CFR 1.56 to disclose the same.*

*If applicant provides prior art, he/she is requested to cite it on form PTO-1449 in accordance with the guideline set forth in MPEP 609.*

### ***Claim Rejections - 35 USC § 102***

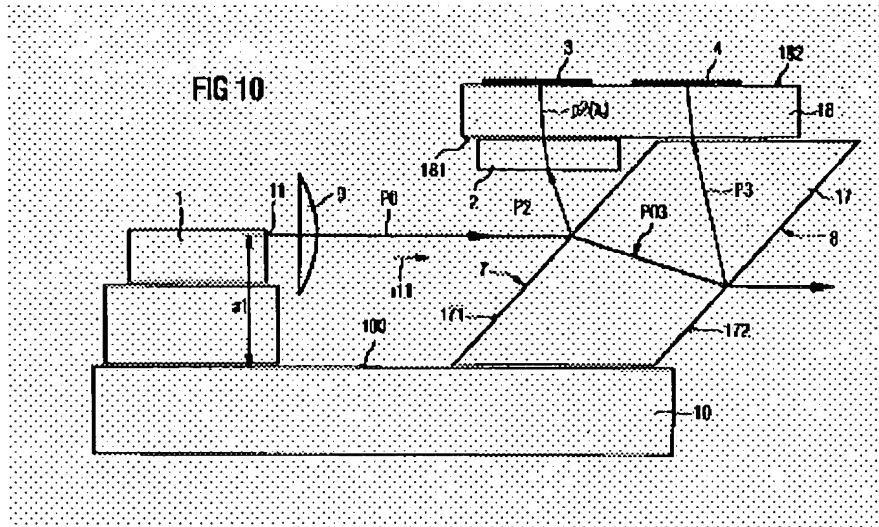
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2874

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1,2,6 and 12-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Auracher et al (USPNO. 6,377,592).



Auracher disclose an optical wavelength control system for an optical source comprising:

----a beam splitter (8) arrangement for propagating radiation from source (1) over two paths

--- first and second photodetectors ( 3 & 4) each arranged in a respective one of said two propagation paths

---a wavelength selective optical filter (2) and

-----the surface 100 of the substrate (10)

Claims 1,10,15,16 and 18 are also rejected under 35 U.S.C. 102 (b) as being clearly anticipated by O'Dowd (USPNO. 6,807,204) or Ball et al. (USPNO. 6,226,424.)

### ***Claim Rejections - 35 USC § 103***

*The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this*

*Office action:*

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37

CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Claims 7-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over*** O'Dowd (USPNO. 6,807,204) or Ball et al. (USPNO. 6,226,424).

Regarding claim 7, the above mentioned references do not explicitly teach that substrate includes a recessed portion adapted to receive said optical fiber but it would have been obvious to one of ordinary skill in the art at the time of the invention was made have a recess portion adapted to receive the optical fiber in any one of the above mentioned references since, columns 9-10 of Ball et al mentioned a method of fabricating and aligning the optics of each assembly. For details see figure 8 & 9.

Regarding claim 8, said associated substrate is L-shaped. Figure 1 of O'Dowd shows a L-shaped

Regarding claim 9, said associated substrate carries a metal pattern for mounting at lest one of said first and second photodetectors mentioned in columns 13-14 of Ball et al.

### ***Objections to Claims, Allowable Subject Matter***

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Cited Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

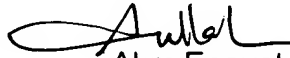
Lano et al., Watterson et al, Nasu et al., Alavie et al., Pfeiffer, and Ball et al are also cited to show a typical an optical wavelength control system respectively.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akm Enayet Ullah whose telephone number is 571-272-2361. The examiner can normally be reached on Monday from Wednesday to 5:30 am till 4:00pm.

Art Unit: 2874

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Akm Enayet Ullah  
Primary Examiner  
Art Unit 2874

AH.

December 13, 2005